



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

March 16, 2018

Henry Johnson
Vital Care Industries, Inc.
7650 W. 185th St. Suite C
Tinley Park, IL 60477

Keeva Shultz
Agent for Zappa-Tec LLC
Wagner Regulatory Associates, Inc.
P.O. Box 640
7217 Lancaster Pike, Suite A
Hockessin, Delaware 19707

Subject: EPA Reg. No. 87708-1, False and Misleading Distributer Product Name

Dear Mr. Johnson and Ms. Shultz:

The Office of Pesticide Programs has received your Notice of Supplemental Distribution of a Registered Pesticide Product for EPA Reg. No. 87708-1 (EPA Form 8570-5). The Distributor Product Name has been listed as "Absolute Solidifier Rx" (Distributor Product #: 87708-1-87983).

Names, brands and trademarks of pesticide products as they are sold, according to 40 CFR § 156.10(b)(2): 1) may not be false or misleading and 2) must be approved by EPA. If a pesticide label is false or misleading in any particular, the pesticide is misbranded under FIFRA § 2(q)(1)(A). It is unlawful to sell or distribute a misbranded pesticide per FIFRA § 12(a)(1)(E). Per 40 CFR § 156.10(a)(5), we have determined that this product name is potentially misleading due to the "Rx" in the title which could imply the product is prescription medication. The Agency, therefore, cannot approve this name. To continue sale or distribution, please provide an application offering a new name or in the alternative, support for the contention that the current name is not misleading, such as a consumer survey.

Please be reminded that by signing EPA Form 8570-5, you are acknowledging your responsibility for ensuring that all conditions of the basic registration are met by your distributor. Failure to change the distributor product name may result in referral to the Office of Enforcement and Compliance Assurance (OECA) for possible enforcement action. OECA has been made aware of this issue and has been copied on this correspondence.

Moreover, please note that under 40 C.F.R. § 152.132, the distributor of a pesticide product is considered an agent of the registrant for all intents and purposes under the Act, and both the registrant and the distributor may be held liable for violations pertaining to the distributor product. It is for this reason that we have included Keeva Shultz, as agent for Zappa-Tec, as an addressee on this letter.

If you have any questions, you may contact the Product Manager, Demson Fuller at fuller.demson@epa.gov or 703-308-8062.

Sincerely,

A handwritten signature in black ink, appearing to read "Rose Kyprianou". The signature is fluid and cursive, with a large loop at the end.

Rose Kyprianou
Chief, Regulatory Management Branch II
Antimicrobials Division (7510P)
Office of Pesticide Programs

CC:

John Hebert, Acting Chief, Pesticides and Tanks Enforcement Branch, Office of Enforcement and Compliance Assurance